

Rule 35. Admission or Denial**35.01 Generally****Subdivision 1. Parent or Legal Custodian.**

(a) **Generally.** Unless the child's parent or legal custodian is the petitioner, a parent who is a party or a legal custodian shall admit or deny the statutory grounds set forth in the petition or remain silent. If the parent or legal custodian denies the statutory grounds set forth in the petition or remains silent, or if the court refuses to accept an admission, the court shall enter a denial of the petition on the record.

(b) **Termination of Parental Rights Matters.** In a termination of parental rights matter, only the parents of the child are required to admit or deny the petition. A party who is not required to admit or deny the petition may object to the admission if that party has filed a petition pursuant to Rule 33.

(c) **Permanent Placement Matters.** In a permanent placement matter:

(1) Only the legal custodian of the child who is not the petitioner is required to admit or deny the petition. A party who is not required to admit or deny the petition may object to the entry of the proposed permanent placement order if that party has filed a petition pursuant to Rule 33.

(2) When there is a petition for transfer of permanent legal and physical custody to a relative who is not represented by counsel, the court may not enter an order granting the transfer of custody unless there is testimony from the proposed custodian establishing that the proposed custodian understands:

- (i) the legal consequences of a transfer of permanent legal and physical custody;
- (ii) the nature and amount of financial support and services that will be available to help care for the child;
- (iii) how the custody order can be modified; and
- (iv) any other permanent placement options available for the subject child.

Subd. 2. Child.

(a) **Generally.** Except as otherwise provided in this rule, the child shall not admit or deny the petition.

(b) **Child's Behavior.** In matters where the sole allegation is that the child's behavior is the basis for the petition, only the child shall admit or deny the statutory grounds set forth in the petition or remain silent.

Subd. 3. Contested Petition. Any party has the right to contest the basis of a petition. The county attorney has the right to contest the basis of a petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services.

(Amended effective January 1, 2004; amended effective January 1, 2007.)

35.02 Denial

Subdivision 1. Denial Without Appearance. A written denial or a denial on the record of the statutory grounds set forth in a petition may be entered by counsel without the personal appearance of the person represented by counsel.

Subd. 2. Further Proceedings After Denial. When a denial by any party is entered, the court shall schedule further proceedings pursuant to Rule 36 or Rule 39.

35.03 Admission

Subdivision 1. Admission Under Oath. Any admission must be made under oath.

Subd. 2. Admission Without Appearance. Upon approval of the court, a written admission of the statutory grounds set forth in the petition, made under oath, may be entered by counsel without personal appearance of the person represented by counsel.

Subd. 3. Questioning of Person Making Admission.

(a) **Generally.** Before accepting an admission the court shall determine on the record or by written document signed by the person admitting and the person's counsel, if represented, whether:

(1) the person admitting acknowledges an understanding of:

- (i) the nature of the statutory grounds set forth in the petition;
- (ii) if unrepresented, the right to representation pursuant to Rule 25;
- (iii) the right to a trial;
- (iv) the right to testify; and
- (v) the right to subpoena witnesses; and

(2) the person admitting acknowledges an understanding that the facts being admitted establish the statutory grounds set forth in the petition.

(b) **Child in Need of Protection or Services Matters, and Habitual Truant, Runaway, and Sexually Exploited Child Matters.** In addition to the questions set forth in subdivision 3(a), before accepting an admission in a child in need of protection or services matter or a matter alleging a child to be a habitual truant, a runaway, or a sexually exploited child, the court shall also determine on the record or by written document signed by the person admitting and the person's counsel, if represented, whether the person admitting acknowledged an understanding that:

(1) a possible effect of a finding that the statutory grounds are proved may be the transfer of legal custody of the child to another or other permanent placement option including termination of parental rights to the child; and

(2) if the child is in out-of-home placement, a permanency progress review hearing will be held within six (6) months of the date the child is ordered placed in foster care or in the home of a noncustodial or nonresident parent, and a permanent placement determination hearing will be held within twelve (12) months of the date the child is ordered placed in foster care or in the home of a noncustodial or nonresident parent.

Subd. 4. Basis for Admission. The court shall refuse to accept an admission unless there is a factual basis for the admission.

(a) **Full Admission.** A party may admit all of the statutory grounds set forth in the petition.

(b) **Partial Admission.** Pursuant to a Rule 19 settlement agreement, a person may admit some, but not all, of the statutory grounds set forth in the petition.

Subd. 5. Withdrawal of Admission. After filing a motion with the court:

(a) an admission may be withdrawn at any time upon a showing that withdrawal is necessary to correct a manifest injustice; or

(b) the court may allow a withdrawal of an admission before a finding on the petition for any fair and just reason.

Subd. 6. Acceptance or Non-Acceptance of Admission. At the time of the admission, the court shall make a finding that:

(a) the admission has been accepted and the statutory grounds admitted have been proved;

(b) the admission has been conditionally accepted pending the court's approval of a settlement agreement pursuant to Rule 19; or

(c) the admission has not been accepted.

Subd. 7. Further Proceedings. If the court makes a finding that the admission is accepted and the statutory grounds admitted are proved, or that the admission is conditionally accepted pending the court's approval of a settlement agreement pursuant to Rule 19, the court shall enter an order with respect to adjudication pursuant to Rule 40 and proceed to disposition. If the court makes a finding that the admission has not been accepted, the court shall schedule further proceedings pursuant to Rule 36 or Rule 39.

(Amended effective January 1, 2004; amended effective January 1, 2007; amended effective July 1, 2014; amended effective July 1, 2015.)